

REMARKS

The present Amendment is responsive to the Official Action mailed November 20, 2008, and is accompanied by a two-month extension petition to reset the deadline for responding to and including April 20, 2009. In view of the amendments and remarks made herein, reconsideration of the Examiner's rejections and allowance of all pending claims is respectfully requested.

Claims 1-2, 4-5, 8-11, 13-16, 27-28, 30, and 33-42 were pending in this application at the time of the Official Action. Of such claims, claims 13-16 and 30 were withdrawn, leaving claims 1-2, 4-5, 8-11, 27-28, and 33-42 as having been reviewed by the Examiner. Each of these claims stands rejected.

Prior to addressing the rejections, Applicants note that the Examiner has indicated that claims 13-16 and 30 were withdrawn pursuant to an election made *without traverse* on October 2, 2008. However, a review of the October 2, 2008 Response to Restriction Requirement, and specifically the portion beginning on page 10 thereof, reveals that the election was made *with traverse*. Applicants request that the record be amended to reflect such.

Moving to the rejections, claims 1-2, 4-5, 8-11, 27-28, and 33-42 were rejected under 35 U.S.C. § 102(a) and (e) as anticipated, or in the alternative, under 35 U.S.C. § 103(a) as obvious over *Mass et al.* (US 6,984,431). The Examiner also rejected claims 1-2, 4-5, 8-11, 27-28, 33-34, 36-38, and 40-42 under 35 U.S.C. § 103(a) as being unpatentable over *Ackermann* (EP 0233471) in view of *Sheth* (US 4,929,303). Applicants address each of the rejections in turn.

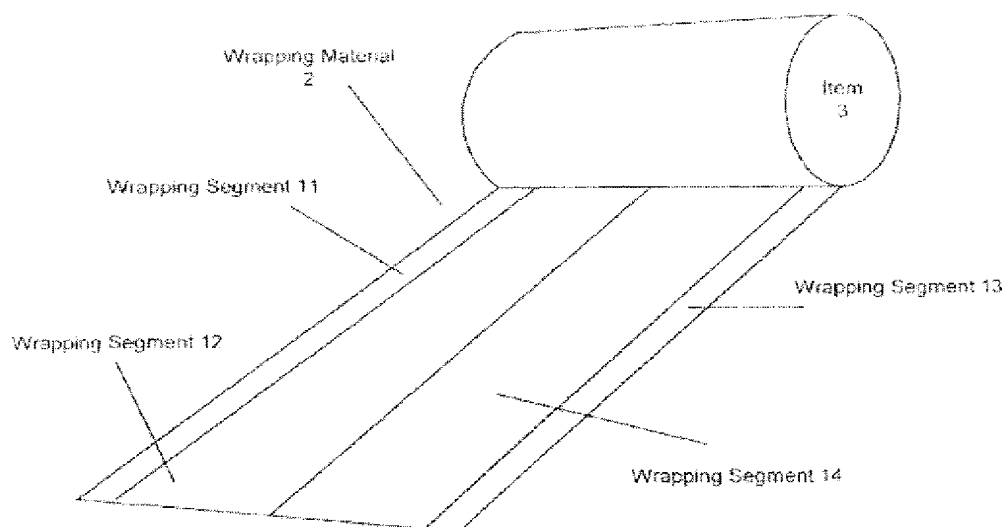
Prior to doing so, however, Applicants note that of the rejected claims, claims 1 and 27 are independent, with the remainder ultimately depending from one of the two. Each of claims 1 and 27 has been amended in an effort to expedite

prosecution and to further define over the art cited by the Examiner. In this regard, claims 1 and 27 were amended to generally specify that the continuous netting extend in length beyond the limits of each of the overlaying breathable material panels such that netting is left exposed between the breathable material panels.

Moreover, the amended claims retain the feature that the breathable material panels be partially attached to the continuous netting. It is well known in the art that such netting reduces in width when stretched lengthwise. (See, Specification, page 5). By having the breathable material panels only partially attached, the underlying continuous netting may alter in size without a corresponding alteration of the breathable material panel. By practicing the present invention, the breathable material panel may not be subject to a reduction in width as the continuous netting to which it is partially attached is stretched. This is an important advance in the baling industry as placement of the breathable material panel about the wrapped bale can be achieved more precisely than with prior art arrangements, and each of the materials may retain their individual mechanical characteristics even when the other material changes (i.e. the elongation of the netting does not affect the width or length of the breathable material). (Id.) Even in instances where the netting does not alter greatly in width as it is extended, the netting and the breathable panel still retain their individual mechanical characteristics.

Finally, it is further noted that claim 1 includes the feature of the netting extending in width at least substantially to the limit of the breathable panel. As will be discussed below, this feature adds further definition over *Ackermann*.

Addressing the rejections specifically, Applicants note that only in the embodiment depicted in Fig. 9 does *Mass* disclose continuous netting. Fig. 9 is reproduced below.

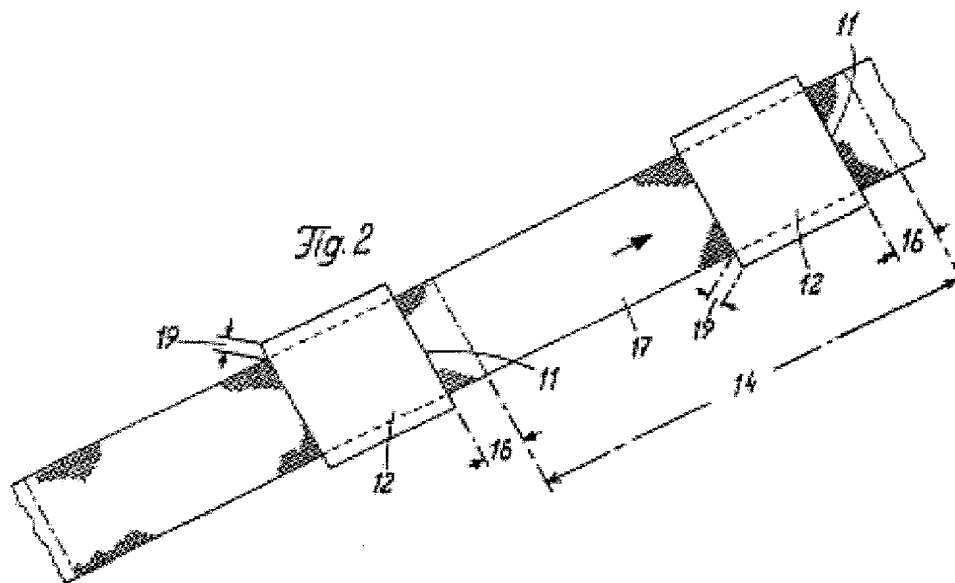


As shown above, the continuous netting is formed from a plurality of wrapping segments, 11, 12, 13, and 14. These segments are "attached longitudinally (i.e. side-by-side)" and no segment extends beyond the limits of another segment. (*Mass*, col.7 l.43). The segments are also not partially attached. (*Id.*) As such, one segment does not overlay another in a manner with a partial attachment as claimed in claims 1 and 27. For this reason alone, *Mass* is not anticipatory under § 102.

Nor does *Mass* render claims 1 or 27 obvious. As stated above, *Mass* teaches continuously connected segments. There is no indication in *Mass* that such segments are anything other than attached along their entire lengths. Indeed, *Mass* would cease to function for its intended purpose if such segments were only partially attached as gaps would form in the wrapping, whereby material intended to be wrapped may pass. Moreover, *Mass* fails to teach or suggest the feature of

including breathable panels partially attached to the continuous netting at preselected intervals along the length of the netting where the panels leave exposed netting between them. For at least these reasons, claims 1 and 27 are believed to be allowable over *Mass* and reconsideration of the rejections are respectfully requested.

For his rejection of claims 1 and 27 under *Ackermann* in view of *Sheth*, the Examiner contends that *Ackermann* discloses each of the features of the claims with the exception of a water impervious and breathable film, which is provided by *Sheth*. However, the *Ackermann* reference fails to disclose certain features found in claims 1 and 27. For example, the *Ackermann* reference teaches a panel overlaying continuous netting, but the panel is attached along its full length and is not partially attached. (See *Ackermann*, Fig. 2, below).



Indeed, element 12 of *Ackermann* is referred to in the translated abstract available on-line at the European Patent Office as a "coating." *Sheth* teaches only material panels and cannot cure this deficiency.

Moreover, claim 1 requires that the continuous netting extend in width at least substantially to the limit of the breathable material panel. *Ackermann* discloses the opposite, where the "breathable panels" have widths greater than that of the underlying continuous netting. Like before, *Sheth* teaches only material panels and cannot cure this deficiency.

For the foregoing reasons, claims 1 and 27 are believed to be allowable over the combination of *Ackermann* and *Sheth*, and reconsideration of the rejections is earnestly solicited.

Based on the perceived allowability of claims 1 and 27, claims 2, 4-5, 8-11, 28, and 33-42, which each ultimately depend from claims 1 or 27, are believed to be allowable. Further, such claims are believed to include additional patentable subject matter beyond that found solely in the independent claims.


Lastly, Applicants note that new claims 43-47 have been added, with claim 47 being independent and the remainder ultimately depending from claim 1. No new matter has been added by way of these additional claims. Claims 43-46 are believed to be allowable at least for the reasons expressed above with respect to claim 1, but are also believed to include additional patentable subject matter. Claim 47 is believed to be allowable as it is inclusive of at least the features of breathable panels partially attached to continuous netting where the panels are of dimensions smaller than the corresponding dimensions of the continuous netting. Favorable consideration of the new claims is respectfully requested.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: April 17, 2009

Respectfully submitted,  
Electronic signature:  
/Scott E. Charney/  
Scott E. Charney

Registration No.: 51,548  
LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK, LLP  
600 South Avenue West  
Westfield, New Jersey 07090  
(908) 654-5000  
Attorney for Applicants  
Under 37 CFR 1.34